

AMENDED IN ASSEMBLY APRIL 21, 2003  
AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1385**

**Introduced by Assembly Member Haynes**

February 21, 2003

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An act to amend Section 56886 of the Government Code, and to amend Section 6 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to county water authorities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1385, as amended, Haynes. County water authorities.

~~(1) Existing law provides that any change of organization or reorganization of one or more local government agencies may provide for, or be made subject to, one or more of specified terms and conditions. One of those terms or conditions is the fixing and establishment of priorities of use or right of use of water or capacity rights in any public improvements or facilities or any other property.~~

~~This bill would provide that in any change of organization or reorganization that includes a detachment of lands from a county water authority, the detached lands shall maintain capacity rights in any public improvements or facilities of the authority that are necessary or convenient for the continued delivery of water to the detached lands, as specified.~~

~~(2) The~~

~~The County Water Authority Act requires that the board of directors of an authority shall consist of at least one representative from each~~

public agency, the area of which is within the authority. The act provides that each member of the board of directors shall be entitled to cast one vote for each \$5,000,000, or major fraction thereof, of the total financial contribution paid to the authority by the public agency that member represents, but not to exceed the number of the total votes of all the other public agencies. The act authorizes a member public agency to require its representatives to cast all of the agency's votes as a unit or to entitle each representative to vote an equal share of the total vote of the agency.

This bill would require that each agency that has more than one representative on the board of directors determine by ordinance, delivered to the secretary of the board, how to allocate the ~~total~~ *single* agency vote among its representatives.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 56886 of the Government Code is~~  
2     ~~amended to read:~~  
3     ~~56886. Any change of organization or reorganization may~~  
4     ~~provide for, or be made subject to one or more of, the following~~  
5     ~~terms and conditions. If a change of organization or reorganization~~  
6     ~~is made subject to one or more of the following terms and~~  
7     ~~conditions in the commission's resolution making determinations,~~  
8     ~~the terms and conditions imposed shall constitute the exclusive~~  
9     ~~terms and conditions for the change of organization or~~  
10    ~~reorganization, notwithstanding the general provisions of Part 5~~  
11    ~~(commencing with Section 57300). However, none of the~~  
12    ~~following terms and conditions shall directly regulate land use,~~  
13    ~~property development, or subdivision requirements:~~  
14    ~~(a) The payment of a fixed or determinable amount of money,~~  
15    ~~either as a lump sum or in installments, for the acquisition, transfer,~~  
16    ~~use or right of use of all or any part of the existing property, real~~  
17    ~~or personal, of any city, county, or district.~~  
18    ~~(b) The levying or fixing and the collection of any of the~~  
19    ~~following, for the purpose of providing for any payment required~~  
20    ~~pursuant to subdivision (a):~~  
21    ~~(1) Special, extraordinary, or additional taxes or assessments.~~  
22    ~~(2) Special, extraordinary, or additional service charges,~~  
23    ~~rentals, or rates.~~

1 ~~(3) Both taxes or assessments and service charges, rentals, or~~  
2 ~~rates.~~

3 ~~(e) The imposition, exemption, transfer, division, or~~  
4 ~~apportionment, as among any affected cities, affected counties,~~  
5 ~~affected districts, and affected territory of liability for payment of~~  
6 ~~all or any part of principal, interest, and any other amounts which~~  
7 ~~shall become due on account of all or any part of any outstanding~~  
8 ~~or then authorized but thereafter issued bonds, including revenue~~  
9 ~~bonds, or other contracts or obligations of any city, county, district,~~  
10 ~~or any improvement district within a local agency, and the levying~~  
11 ~~or fixing and the collection of any (1) taxes or assessments, or (2)~~  
12 ~~service charges, rentals, or rates, or (3) both taxes or assessments~~  
13 ~~and service charges, rentals, or rates, in the same manner as~~  
14 ~~provided in the original authorization of the bonds and in the~~  
15 ~~amount necessary to provide for that payment.~~

16 ~~(d) If, as a result of any term or condition made pursuant to~~  
17 ~~subdivision (c), the liability of any affected city, affected county,~~  
18 ~~or affected district for payment of the principal of any bonded~~  
19 ~~indebtedness is increased or decreased, the term and condition may~~  
20 ~~specify the amount, if any, of that increase or decrease which shall~~  
21 ~~be included in, or excluded from, the outstanding bonded~~  
22 ~~indebtedness of that entity for the purpose of the application of any~~  
23 ~~statute or charter provision imposing a limitation upon the~~  
24 ~~principal amount of outstanding bonded indebtedness of the entity.~~

25 ~~(e) The formation of a new improvement district or districts or~~  
26 ~~the annexation or detachment of territory to, or from, any existing~~  
27 ~~improvement district or districts.~~

28 ~~(f) The incurring of new indebtedness or liability by, or on~~  
29 ~~behalf of, all or any part of any local agency, including territory~~  
30 ~~being annexed to any local agency, or of any existing or proposed~~  
31 ~~new improvement district within that local agency. The new~~  
32 ~~indebtedness may be the obligation solely of territory to be~~  
33 ~~annexed if the local agency has the authority to establish zones for~~  
34 ~~incurring indebtedness. The indebtedness or liability shall be~~  
35 ~~incurred substantially in accordance with the laws otherwise~~  
36 ~~applicable to the local agency.~~

37 ~~(g) The issuance and sale of any bonds, including authorized~~  
38 ~~but unissued bonds of a local agency, either by that local agency~~  
39 ~~or by a local agency designated as the successor to any local agency~~

1 ~~which is extinguished as a result of any change of organization or~~  
2 ~~reorganization.~~

3 ~~(h) The acquisition, improvement, disposition, sale, transfer,~~  
4 ~~or division of any property, real or personal.~~

5 ~~(i) The disposition, transfer, or division of any moneys or~~  
6 ~~funds, including cash on hand and moneys due but uncollected,~~  
7 ~~and any other obligations.~~

8 ~~(j) The fixing and establishment of priorities of use or right of~~  
9 ~~use of water or capacity rights in any public improvements or~~  
10 ~~facilities or any other property, real or personal. In any change of~~  
11 ~~organization or reorganization that includes the detachment of~~  
12 ~~lands from a county water authority, the detached lands shall~~  
13 ~~maintain capacity rights in any public improvements or facilities~~  
14 ~~of the county water authority that are necessary or convenient for~~  
15 ~~the continued delivery of water to the detached lands, regardless~~  
16 ~~of whether or not the public improvements are located within the~~  
17 ~~boundaries of the lands that are being detached. Those capacity~~  
18 ~~rights shall be in proportion to the historical capital contributions~~  
19 ~~made to the county water authority for, by, or on account of the~~  
20 ~~lands that are being detached, and to the greatest extent possible~~  
21 ~~shall be calculated and allocated to specific public improvements~~  
22 ~~and facilities so as to allow the lands that are being detached to~~  
23 ~~continue utilizing the capacity facilities, and improvements that~~  
24 ~~historically have been used to serve them. However, none of the~~  
25 ~~terms and conditions ordered pursuant to this subdivision shall~~  
26 ~~modify priorities of use, or right of use, to water, or capacity rights~~  
27 ~~in any public improvements or facilities that have been fixed and~~  
28 ~~established by a court or an order of the State Water Resources~~  
29 ~~Control Board.~~

30 ~~(k) The establishment, continuation, or termination of any~~  
31 ~~office, department, or board, or the transfer, combining,~~  
32 ~~consolidation, or separation of any offices, departments, or boards,~~  
33 ~~or any of the functions of those offices, departments, or boards, if,~~  
34 ~~and to the extent that, any of those matters is authorized by the~~  
35 ~~principal act.~~

36 ~~(l) The employment, transfer, or discharge of employees, the~~  
37 ~~continuation, modification, or termination of existing employment~~  
38 ~~contracts, civil service rights, seniority rights, retirement rights,~~  
39 ~~and other employee benefits and rights.~~

1 ~~(m) The designation of a city, county, or district, as the~~  
2 ~~successor to any local agency that is extinguished as a result of any~~  
3 ~~change of organization or reorganization, for the purpose of~~  
4 ~~succeeding to all of the rights, duties, and obligations of the~~  
5 ~~extinguished local agency with respect to enforcement,~~  
6 ~~performance, or payment of any outstanding bonds, including~~  
7 ~~revenue bonds, or other contracts and obligations of the~~  
8 ~~extinguished local agency.~~

9 ~~(n) The designation of (1) the method for the selection of~~  
10 ~~members of the legislative body of a district or (2) the number of~~  
11 ~~those members, or (3) both, where the proceedings are for a~~  
12 ~~consolidation, or a reorganization providing for a consolidation or~~  
13 ~~formation of a new district and the principal act provides for~~  
14 ~~alternative methods of that selection or for varying numbers of~~  
15 ~~those members, or both.~~

16 ~~(o) The initiation, conduct, or completion of proceedings on a~~  
17 ~~proposal made under, and pursuant to, this division.~~

18 ~~(p) The fixing of the effective date of any change of~~  
19 ~~organization, subject to the limitations of Section 57202.~~

20 ~~(q) Any terms and conditions authorized or required by the~~  
21 ~~principal act with respect to any change of organization.~~

22 ~~(r) The continuation or provision of any service provided at that~~  
23 ~~time, or previously authorized to be provided by an official act of~~  
24 ~~the local agency.~~

25 ~~(s) The levying of assessments, including the imposition of a~~  
26 ~~fee pursuant to Section 50029 or 66484.3 or the approval by the~~  
27 ~~voters of general or special taxes. For the purposes of this section,~~  
28 ~~imposition of a fee as a condition of the issuance of a building~~  
29 ~~permit does not constitute direct regulation of land use, property~~  
30 ~~development, or subdivision requirements.~~

31 ~~(t) The extension or continuation of any previously authorized~~  
32 ~~charge, fee, assessment, or tax by the local agency or a successor~~  
33 ~~local agency in the affected territory.~~

34 ~~(u) The transfer of authority and responsibility among any~~  
35 ~~affected cities, affected counties, and affected districts for the~~  
36 ~~administration of special tax and special assessment districts,~~  
37 ~~including, but not limited to, the levying and collecting of special~~  
38 ~~taxes and special assessments, including the determination of the~~  
39 ~~annual special tax rate within authorized limits; the management~~  
40 ~~of redemption, reserve, special reserve, and construction funds;~~

~~the issuance of bonds which are authorized but not yet issued at the time of the transfer, including not yet issued portions or phases of bonds which are authorized; supervision of construction paid for with bond or special tax or assessment proceeds; administration of agreements to acquire public facilities and reimburse advances made to the district; and all other rights and responsibilities with respect to the levies, bonds, funds, and use of proceeds that would have applied to the local agency that created the special tax or special assessment district.~~

~~(v) Any other matters necessary or incidental to any of the terms and conditions specified in this section. If a change of organization, reorganization, or special reorganization provides for, or is made subject to one or more of, the terms and conditions specified in this section, those terms and conditions shall be deemed to be the exclusive terms and conditions for the change of organization, reorganization, or special reorganization, and shall control over any general provisions of Part 5 (commencing with Section 57300).~~

~~SEC. 2.—~~

*SECTION 1.* Section 6 of the County Water Authority Act (Chapter 545 of the Statutes of 1943) is amended to read:

Sec. 6. (a) All powers, privileges, and duties vested in or imposed upon any authority incorporated under this act shall be exercised and performed by and through a board of directors. The exercise of any and all executive, administrative, and ministerial powers may be delegated by the board of directors to any of the offices created by this act or by the board of directors acting under this act.

(b) The board of directors shall consist of at least one representative from each public agency, the area of which is within the authority. The representatives shall be designated and appointed by the chief executive officers of those public agencies, respectively, with the consent and approval of the legislative bodies of the public agencies, respectively. Any member of the governing body of a member agency that is a water district may be appointed by that member agency to the board of the authority to serve as the agency's representative, except that, in the case of agencies with several representatives, a majority of the members of the governing body of the agency may not be appointed by the agency to serve as representatives on the board of the authority.

Any director holding dual offices shall not vote upon any contract between a county water authority and the member public agency he or she represents on the authority's board. The term "water district," as used in this subdivision, has the same meaning as in subdivision (a) of Section 10.

(c) Members of the board of directors shall hold office for a term of six years, and until their successors are appointed and qualified. However, the terms of the members of the first board shall be determined by lot so that the terms of not less than one-half of the members shall be three years and the terms of the remainder shall be six years. Every member shall be subject to recall by the voters of the public agency from which that member is appointed, in accordance with the recall provisions of the freeholders' charter or other law applicable to the public agency. Notwithstanding that representatives are appointed for a fixed term of years, members of the board of directors serve at the will of the governing body of the public agency from which the member is appointed and may be removed by a majority vote of the governing body without a showing of good cause.

(d) In addition to one representative, any public agency may, at its option, designate and appoint one additional representative for each full 5 percent of the assessed value of property taxable for authority purposes which is within the public agency. However, the term of office of any representative shall not be changed or terminated by reason of any future change in the assessed value of property within any member agency.

(e) In order for the board of directors to act on any item, other than consent items pursuant to paragraph (2), it is necessary for a single vote to be taken by the board that satisfies the requirements of paragraphs (1) and (2):

(1) Each member of the board of directors shall be entitled to cast one vote for each five million dollars (\$5,000,000), or major fractional part thereof, of the total financial contribution paid to the authority that is attributable to the public agency of which the member is a representative, provided that no public agency shall have votes that exceed the number of the total votes of all the other public agencies. A public agency with more than one representative shall have the option, by ordinance, to either require its representatives to cast all of that agency's votes as a unit, as a majority of the representatives present shall determine, or to entitle



1 each representative to cast an equal share of the total vote of that  
2 agency. A copy of the ordinance shall be delivered to the secretary  
3 of the board of directors. The affirmative votes of members  
4 representing more than 50 percent of the number of votes of all the  
5 members shall be necessary, and except as herein provided,  
6 sufficient to carry any action coming before the board of directors  
7 for the purposes of this paragraph. If the public agency member  
8 having the largest total financial contribution to the authority has  
9 more than 38 percent of the total financial contribution to the  
10 authority, the affirmative votes of members representing more  
11 than 55 percent of the number of votes of all the members shall be  
12 necessary, except as herein provided, to carry any action coming  
13 before the board of directors for the purposes of this paragraph.

14 (2) *A majority vote is obtained on the basis of one vote per*  
15 *agency present at the meeting.* Each agency that has more than one  
16 representative on the board of directors shall determine, by  
17 ordinance, how to allocate its ~~total~~ *single* agency vote among its  
18 representatives, and shall deliver a copy of the ordinance to the  
19 secretary of the board of directors.

20 Any meeting may be adjourned, continued, or recessed from  
21 day to day or from time to time, by vote of the director or directors  
22 present, regardless of the number of directors present.

23 (f) For the purposes of this section, “total financial  
24 contribution” includes all amounts paid in taxes, assessments,  
25 fees, and charges to or on behalf of the authority with respect to  
26 property located within the boundaries of member public  
27 agencies, including, but not limited to, standby charges, capacity  
28 charges, readiness to serve charges, connection and maintenance  
29 fees, annexation fees and charges for water delivered to member  
30 public agencies by the authority excluding the cost of treatment for  
31 the water. The total financial contribution shall be determined by  
32 the board of directors as of the end of each fiscal year. Allocation  
33 of voting power shall be reestablished by the board of directors on  
34 January 1 of each year based upon the calculation determined for  
35 the previous fiscal year.

36 (g) Subject to confirmation by his or her public agency, a  
37 member of the board of directors may designate another member  
38 of the board of directors to vote in his or her absence. The  
39 designation and the confirmation shall be by a written instrument  
40 filed with the authority. If a director will be absent and wishes the



designee to cast the vote, a written notice shall be filed with the secretary of the board of directors. If the notice is not received by the authority, the vote of the absent director will not be counted. The designation, confirmation, and notices shall be maintained on file with the authority. The designation may be changed from time to time with the confirmation of the representative's agency. The designation shall not direct how the absent representative's vote shall be cast on any matter. Directors from a public agency represented by more than one director shall be deemed confirmed as designated representatives to vote for absent directors from that public agency. This section does not apply to a public agency that has exercised the option under subdivision (e) to cast all of that agency's votes as a unit.

(h) Notwithstanding subdivision (f), the total financial contribution and the vote of each member public agency of the San Diego County Water Authority as of July 1, 1997, shall be as follows:

| AGENCY                                     | Total Financial<br>Contribution<br>July 1, 1997 | VOTES  |
|--|---|--------|
| Carlsbad Municipal Water District          | \$129,787,887                                   | 25.96  |
| City of Del Mar                            | 13,712,188                                      | 2.74   |
| City of Escondido                          | 128,929,059                                     | 25.78  |
| Fallbrook Public Utilities District        | 116,801,107                                     | 23.36  |
| Helix Water District                       | 356,506,629                                     | 71.30  |
| National City                              | 45,046,563                                      | 9.01   |
| City of Oceanside                          | 192,690,117                                     | 38.53  |
| Olivenhain Municipal Water District        | 73,733,684                                      | 14.75  |
| Otay Water District                        | 146,294,367                                     | 29.26  |
| Padre Dam Municipal Water District         | 142,768,644                                     | 28.55  |
| Pendleton Military Res.                    | 10,921,265                                      | 2.18   |
| City of Poway                              | 82,602,257                                      | 16.52  |
| Rainbow Municipal Water District           | 194,841,500                                     | 38.96  |
| Ramona Municipal Water District            | 65,220,318                                      | 13.04  |
| Rincon Del Diablo Municipal Water District | 69,024,271                                      | 13.80  |
| City of San Diego                          | 1,864,642,414                                   | 372.97 |
| San Dieguito Water District                | 51,831,643                                      | 10.37  |

|   |  |                 |        |
|---|--|-----------------|--------|
| 1 | Santa Fe Irrigation District           | 64,860,359      | 12.97  |
| 2 | South Bay Irrigation District          | 139,063,067     | 27.81  |
| 3 | Vallecitos Water District              | 64,994,093      | 13.00  |
| 4 | Valley Center Municipal Water District | 243,877,685     | 48.77  |
| 5 | Vista Irrigation District              | 118,493,448     | 23.70  |
| 6 | Yuima Municipal Water District         | 15,146,776      | 3.03   |
| 7 |  |                 |        |
| 8 | TOTALS:                                | \$4,331,789,341 | 866.36 |
| 9 |  |                 |        |

10 (i) The total financial contribution for the San Diego County  
 11 Water Authority shall be determined by the board of directors as  
 12 of the end of each fiscal year by adding the total financial  
 13 contribution of each agency for the fiscal year to the totals  
 14 provided for in subdivision (h) establishing the total financial  
 15 contribution as of July 1, 1997. Allocation of voting power shall  
 16 be reestablished by the board of directors to be effective on January  
 17 1 of each year based upon the calculation determined for the  
 18 previous fiscal year. In addition to the definition in subdivision (f),  
 19 “total financial contribution” shall also include all amounts paid  
 20 in taxes, assessments, fees, and charges paid to or on behalf of the  
 21 Metropolitan Water District of Southern California with respect to  
 22 property located within the boundaries of member public agencies  
 23 including, but not limited to, standby charges, capacity charges,  
 24 readiness to serve charges, connection and maintenance fees,  
 25 annexation fees, and charges for water sold to member public  
 26 agencies by the authority excluding the cost of treatment for the  
 27 water.

28 (j) Members of the first board of directors so constituted shall  
 29 convene at the call of the clerk of the board of supervisors in the  
 30 meeting room of the board of supervisors at the county seat of the  
 31 county, and immediately upon convening, the board of directors  
 32 shall elect from its membership a chairperson, a vice chairperson,  
 33 and a secretary, who shall serve for a period of two years, or until  
 34 their respective successors are elected and qualified.

35 (k) A quorum necessary for the transaction of business at any  
 36 meeting of the board of directors exists whenever there are present  
 37 at the meeting a majority of the membership of the board of  
 38 directors that includes at least one-half of the number of  
 39 representatives of each public agency member having more than  
 40 six representatives serving on the board of directors. Designees

1 appointed pursuant to subdivision (g) shall not be considered  
2 “present” for the purposes of establishing a quorum. However,  
3 any regular or special meeting of the board of directors at which  
4 a quorum is not present may be continued from time to time until  
5 a quorum is present to transact the business of the board of  
6 directors.

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